

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOSHUA FORSTER,

Plaintiff,

v.

STEPHANIE CLENDENIN, et al.,

Defendants.

Case No.: 1:22-cv-01191-KES-CDB (PC)

**ORDER DIRECTING CLERK OF THE  
COURT TO TERMINATE MOTION  
FILED MAY 23, 2024**

(Doc. 66)

**ORDER DIRECTING COUNSEL TO FILE  
NOTICE OF RELATED CASES**

**ORDER DIRECTING PARTIES TO FILE  
JOINT STATUS REPORT NO LATER  
THAN OCTOBER 1, 2024**

Plaintiff Joshua Forster is a civil detainee proceeding through counsel in this civil rights action brought pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Clendenin and Price for violations of Plaintiff's Fourteenth Amendment rights and related state law violations.

**I. RELEVANT BACKGROUND**

The Court issued its Order Re Plaintiff's Motions for Leave to Propound Additional Interrogatories on May 30, 2024, resolving three discovery motions. (Doc. 68.) On that date, a fourth discovery motion, filed May 23, 2024, remained pending resolution. (Doc. 66.)

1 Following the submission of proposed substitutions of attorney (Docs. 72, 73), on July 1,  
2 2024, the Court issued its Order Granting Plaintiff's Substitution of Attorney. (Doc. 74.)

3 On July 29, 2024, the Court issued its Order Directing Parties to Meet and Confer and to  
4 File Joint Status Report Within 21 Days. (Doc. 75.) More specifically, the parties were to "meet  
5 and confer concerning the discovery motion to determine whether partial or full resolution of the  
6 discovery dispute can be reached without Court intervention" and to "detail and explain their  
7 meet and confer efforts in the joint status report and state what dispute(s) remain pending, if any,  
8 following their conference." (*Id.* at 2.)

9 The parties filed a joint status report on August 19, 2024. (Doc. 76.)

## 10 **II. DISCUSSION**

### 11 ***The Joint Status Report***

12 In the joint status report, the parties advise they agree Plaintiff's pending discovery  
13 motion may be deemed withdrawn. (Doc. 76 at 2.)

14 Next, the parties advise they "are drafting a stipulation and proposed order to consolidate"  
15 this matter with two other cases pending in this district: (1) *Stephenson v. Clendenin*, case number  
16 2:22-cv-01521-DAD-JDP; and (2) *Bodnar v. Clendenin*, case number 2:22-cv-01533-DAD-AC.  
17 (Doc. 76 at 2.) The plaintiffs in all three actions are represented by the same counsel and all three  
18 actions involve alleged due process violations related to the conditions of confinement at the  
19 Department of State Hospitals-Coalinga. (*Id.*) Each of the other actions involve Defendants  
20 Clendenin and Price, and while the *Bodnar* action also names Governor Newsom, the parties are  
21 finalizing a stipulation to dismiss Newsom without prejudice. (*Id.*) The parties note that discovery  
22 in this action and the *Stephenson* matter has been ongoing for several months, while discovery  
23 has not yet commenced in the *Bodnar* matter. (*Id.*)

24 The parties state that should the Court consolidate the three cases, they "will need to be  
25 transferred or assigned to one of the three judges for all pre-trial purposes," and that judge "would  
26 then need to adjudicate any motions to dismiss filed by Defendants to Bodnar's operative third  
27 amended complaint, and to "any new, attorney-drafted amended complaints" in this action and in  
28 the *Stephenson* matter before issuance of a consolidated scheduling order. (Doc. 76 at 2-3.)

1 Defendants note that they anticipate signing service waivers by the end of August, making a  
2 responsive pleading due in the *Bodnar* matter by the end of September. (*Id.* at 3.)

3 The parties note that Plaintiff's counsel is presently reviewing the extensive written  
4 discovery in this matter and in *Stephenson* to determine what additional discovery may be  
5 necessary. (Doc. 76 at 3.) Further, because the parties agree that discovery conducted in one case  
6 may be used in the others, Defendants will object to any duplicative discovery requests. (*Id.*)  
7 Next, the parties indicate counsel for the three plaintiffs plans to conduct depositions of  
8 Clendenin and Price and other employees; the parties indicate they agree that witnesses may only  
9 be deposed once, and their testimony may be used in all three cases. (*Id.*) Plaintiff reserves the  
10 right to seek additional depositions from the same witness if discovery reveals additional  
11 information requiring additional testimony. (*Id.*) Defendants reserve the right to object to the  
12 number of depositions that counsel seeks if excessive, and to oppose any further deposition. (*Id.*)

13 Finally, the parties state they are amenable to filing a further joint status report in 60 days,  
14 or at the Court's convenience, when additional details are available concerning discovery and  
15 scheduling. (Doc. 76 at 3.)

### 16 *Analysis*

17 Because the parties advise that they agree Plaintiff's pending discovery motion may be  
18 deemed withdrawn, the undersigned will direct the Clerk of the Court to terminate the motion.

19 Next, the Court notes that a Notice of Related Cases has not been filed in this action. This  
20 Court's Local Rule 123(b) provides as follows:

21 Counsel who has reason to believe that an action on file or about to  
22 be filed may be related to another action on file (whether or not  
23 dismissed or otherwise terminated) shall promptly file in each action  
24 and serve on all parties in each action a Notice of Related Cases. This  
25 notice shall set forth the title and number of each possibly related  
26 action, together with a brief statement of their relationship and the  
reasons why assignment to a single Judge and/or Magistrate Judge is  
likely to effect a savings of judicial effort and other economies. The  
Clerk shall notify the Judges and Magistrate Judges to whom the  
actions are assigned promptly of such filing.

27 Based on the parties' reported agreement in principle that the relevant matters should be  
28 consolidated, the Court perceives that the Rule 123(b) factors cited above likewise weigh in favor

1 of relating the cases. Accordingly, Plaintiff's counsel will be directed to file a Notice of Related  
2 Cases, in accordance with Local Rule 123(b), in this action and in the *Stephenson* and *Bodnar*  
3 matters.

4 Lastly, the Court will direct the parties to file another joint status report by October 1,  
5 2024. If at that time the parties have not yet submitted a stipulation concerning consolidation of  
6 this matter, they shall address in detail the status of those efforts and the procedural posture of the  
7 *Stephenson* and *Bodnar* matters as it stands at that time.

8 **III. CONCLUSION AND ORDER**

9 Accordingly, this Court **ORDERS**:

- 10 1. The Clerk of the Court is **DIRECTED** to terminate, or mark as resolved, the pending  
11 discovery motion (Doc. 66);
- 12 2. Plaintiff's counsel **SHALL** file a Notice of Related Cases in this action, as well as in  
13 the *Stephenson* and *Bodnar* actions, in accordance with Local Rule 123, **within 14**  
14 **days** of the date of this Order; and
- 15 3. The parties **SHALL** file a joint status report in this action **no later than October 1,**  
16 **2024.**

17 IT IS SO ORDERED.

18 Dated: **September 6, 2024**

19   
20 UNITED STATES MAGISTRATE JUDGE  
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